ENVIRONMENTAL LAW

Lewis & Clark Law School

INDEX

Volume 37
2007

TABLE OF TITLES

ARTICLES

The Art of the Unsolvable: Locating the Vital Center of Science for Environmental Law & Policy
David E. Adelman 935
Biodiversity and a New "Best Case" for Applying the Environmental Statutes Extraterritorially
Paul Boudreaux 1107
Bioregional Conservation May Mean Taking Habitat
Jamison Colburn 249
The Complementary Roles of Common Law Courts and Federal Agencies in Producing and Using Policy-Relevant Scientific Information
Thomas O. McGarity 1027
Emerging Commons and Tragic Institutions
Brigham Daniels 515
From the USA with Love: Sharing Home-Grown Hormones, GMOs, and Clones with a Reluctant Europe
Cinnamon Carlarne 301
Incorporating Emergy Synthesis into Environmental Law: An Integration of Ecology, Economics, and Law
Mary Jane Angelo & Mark T. Brown 963
Irrigation Return Flow or Discrete Discharge? Why Water Pollution from Cranberry Bogs Should Fall within the Clean Water Act's NPDES Program
Andrew C. Hanson & David C. Bender 339
Law, Environmental Dynamism, Reliability: The Rise and Fall of CALFED
Dave Owen 1145
Mediating Sustainability: The Public Interest Mediator in the New Zealand Environment Court
Stephen Higgs 61
Missing the Link: The Importance of Keeping Ecosystems Intact and What the Endangered Species Act Suggests We Do About It
Kalyani Robbins 573
OMB and the Politicization of Risk Assessment
Sidney A. Shapiro 1083
The Politics of Risk: Pre-Litigation Site Assessment in Houston, Texas
Gregg P. Macey 15

The Protection of Environmentally-Displaced Persons in International Law
Aurelie Lopez 365
Reconstructing the Wall of Virtue: Maxims for the Co-Evolution of Environmental Law and Environmental Science
J.B. Ruhl 1063
Remembering Rain
Troy L. Payne & Janet Neuman 105
Science, Law, and the Environment: The Need for a Modern Discipline
Deborah M. Brosnan 987
Science, Risk, and Risk Assessment and Their Role(s) Supporting Environmental Risk Management
Robert G. Hetes 1007

ESSAYS & REMARKS

Energy Independence and Global Warming
Richard J. Pierce, Jr. 595
Tales of French Fries and Bottled Water: The Environmental Consequences of Groundwater Pumping
Robert Glennon 3
What Are Lobbyists Saying on Capitol Hill? Climate Change Legislation as a Case Study for Reform
Sybil Ackerman 137

NOTES & COMMENTS

Carteisan Eco-Femdarkanism: She Comes from the Earth, Therefore We Are
Troy L. Payne 201
Common Law on Ice: Using Federal Judge-Made Nuisance Law to Address the Interstate Effects of Greenhouse Gas Emissions
Dan Mensher 463
Confronting Toxic Work Exposure in China: The Precautionary Principle and Burden Shifting
Monique Lee Hawthorne 151
Defenders of Appalachia: The Campaign to Eliminate Mountaintop Removal Coal Mining and the Role of Public Justice
Mark Baller & Leor Joseph Pantilat 629
Israeli-Palestinian Water Literature's Misplaced Dependence upon Customary International Law
Ian J. Silverbrand 603

The Politics of Preemption: An Application of Preemption Jurisprudence and Policy to California Assembly Bill 1493
Sara A. Colangelo 175
The Power of the Sea: Using Ocean Energy to Meet Florida's Need for Power
Lisa A. Kelley 489
Questionable Authority: A Recent CEQ Guidance Memorandum
John C. Grothaus 885
The Quick and the Dead: Earth Island v. Forest Service and the Risk of Forest Service Financial Bias in Post-Fire Logging Adjudications
Austin D. Saylor 847
Repudiation and Regret: Is the United States Sitting Out the Kyoto Protocol to Its Economic Detriment?
Eric Shaffner 441
Sequestration, Science, and the Law: An Analysis of the Sequestration Component of the California and Northeastern States' Plans to Curb Global Warming
Elizabeth C. Brodeen 1217

AMICUS BRIEF

Brief for Natural Resources Defense Council as Amici Curiae Supporting Respondent, United States v. Atlantic Research Corp. No. 06-562 (U.S. Apr. 5, 2007)
Craig Johnston 411

TRIBUTE

Dean James L. Huffman
Micheal C. Blumm v
William Funk ix
Ronald B. Lansing i
Susan F. Mandiberg xii
Erica J. Thorson xvii

POEM

The Lawyer Speaks of Rivers
Jean Stefancic xxi

EDITOR'S NOTE

Remembering Our Roots
Corey Tolliver.....1

TABLE OF AUTHORS

Sybil Ackerman, *What Are Lobbyists Saying on Capitol Hill? Climate Change Legislation as a Case Study for Reform*.....137
David E. Adelman, *The Art of the Unsolvable: Locating the Vital Center of Science for Environmental Law & Policy*.....935
Mary Jane Angelo & Mark T. Brown, *Incorporating Emergy Synthesis into Environmental Law: An Integration of Ecology, Economics, and Law*.....963
Mark Baller & Leor Joseph Pantilat, *Defenders of Appalachia: The Campaign to Eliminate Mountaintop Removal Coal Mining and the Role of Public Justice*.....629
Micheal C. Blumm, *The Bow-tie Era of Lewis and Clark Law School: Dean Jim Huffman, 1993-2006*.....v
Paul Boudreaux, *Biodiversity and a New "Best Case" for Applying the Environmental Statutes Extraterritorially*.....1107
Elizabeth C. Brodeen, *Sequestration, Science, and the Law: An Analysis of the Sequestration Component of the California and Northeastern States' Plans to Curb Global Warming*.....1217
Deborah M. Brosnan, *Science, Law, and the Environment: The Need for a Modern Discipline*.....987
Cinnamon Carlarne, *From the USA with Love: Sharing Home-Grown Hormones, GMOs, and Clones with a Reluctant Europe*.....301
Sara A. Colangelo, *The Politics of Preemption: An Application of Preemption Jurisprudence and Policy to California Assembly Bill 1493*.....175
Jamison Colburn, *Bioregional Conservation May Mean Taking Habitat*.....249
Brigham Daniels, *Emerging Commons and Tragic Institutions*.....515
William Funk, *A Tribute to Dean James Huffman*.....ix
Robert Glennon, *Tales of French Fries and Bottled Water: The Environmental Consequences of Groundwater Pumping*.....3
John C. Grothaus, *Questionable Authority: A Recent CEQ Guidance Memorandum*.....885
Andrew C. Hanson & David C. Bender, *Irrigation Return Flow or Discrete Discharge? Why Water Pollution from Cranberry Bogs Should Fall within the Clean Water Act's NPDES Program*.....339

Monique Lee Hawthorne, *Confronting Toxic Work Exposure in China: The Precautionary Principle and Burden Shifting* 151
Robert G. Hetes, *Science, Risk, and Risk Assessment and Their Role(s) Supporting Environmental Risk Management* 1007
Stephen Higgs, *Mediating Sustainability: The Public Interest Mediator in the New Zealand Environment Court* 61
Craig Johnston, *Brief for Natural Resources Defense Council as Amici Curiae Supporting Respondent, United States v. Atlantic Research Corp. No. 06-562 (U.S. Apr. 5, 2007)* 411
Lisa A. Kelley, *The Power of the Sea: Using Ocean Energy to Meet Florida's Need for Power* 489
Ronald B. Lansing, *The Crowning of Hearts: A Tribute to Dean Huffman* i
Aurelie Lopez, *The Protection of Environmentally-Displaced Persons in International Law* 365
Gregg P. Macey, *The Politics of Risk: Pre-Litigation Site Assessment in Houston, Texas* 15
Susan F. Mandiberg, *Jim Huffman: Free Market and Laissez Faire in the Dean's Office, 1993-2006* xiii
Thomas O. McGarity, *The Complementary Roles of Common Law Courts and Federal Agencies in Producing and Using Policy-Relevant Scientific Information* 1027
Dan Mensher, *Common Law on Ice: Using Federal Judge-Made Nuisance Law to Address the Interstate Effects of Greenhouse Gas Emissions* 463
Dave Owen, *Law, Environmental Dynamism, Reliability: The Rise and Fall of CALFED* 1145
Troy L. Payne & Janet Neuman, *Remembering Rain* 105
Troy L. Payne, *Carteisan Eco-Femdarkanism: She Comes from the Earth, Therefore We Are* 201
Richard J. Pierce, Jr., *Energy Independence and Global Warming* 595
Kalyani Robbins, *Missing the Link: The Importance of Keeping Ecosystems Intact and What the Endangered Species Act Suggests We Do About It* 573
J.B. Ruhl, *Reconstructing the Wall of Virtue: Maxims for the Co-Evolution of Environmental Law and Environmental Science* 1063
Austin D. Saylor, *The Quick and the Dead: Earth Island v. Forest Service and the Risk of Forest Service Financial Bias in Post-Fire Logging Adjudications* 847
Eric Shaffner, *Repudiation and Regret: Is the United States Sitting Out the Kyoto Protocol to Its Economic Detriment?* 441
Sidney A. Shapiro, *OMB and the Politicization of Risk Assessment* 1083
Ian J. Silverbrand, *Israeli-Palestinian Water Literature's Misplaced Dependence upon Customary International Law* 603

Jean Stefancic, *The Lawyer Speaks of Rivers* xxi
Erica J. Thorson, *Dean Huffman's Entrepreneurial Spirit and Wise Investments: An International Environmental Law Perspective* xvii
Corey Tolliver, *Remembering Our Roots* 1